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March 2, 2020

Hon. Scott Harris
Clerk, Supreme Court of the United States
One First Street, NE
Washington, DC 20543

BY OVERNIGHT DELIVERY AND E-FILING

Re: *DeRay Mckesson v. John Doe*, S. Ct. Dkt. No. 19-730

Dear Mr. Harris:

I represent the petitioner in the above-referenced case and am writing to request that the petition be dismissed pursuant to this Court's Rule 46. My client is the sole petitioner, and respondent has incurred no costs.

As I have explained in a series of conversations with Deputy Clerk Bickell, the decision from which that petition sought review was withdrawn, *sua sponte*, by the court of appeals on December 16, 2019—ten days after Mr. Mckesson filed this certiorari petition. That day, the court issued a new judgment and decision, which addressed new issues (including ones raised in a dissenting opinion by a judge who had joined the panel's initial and rehearing opinions, but "on further reflection" had come to disagree with the court's holding). The court of appeals advised petitioner of his right to seek rehearing of the December decision, and, ultimately, the Fifth Circuit, on its own initiative, considered rehearing the case *en banc*; in a January 28, 2020 order, which prompted three additional opinions, it declined to do so, by an 8-8 vote. That court's mandate issued on February 5, 2020.

As I have advised Mr. Bickell, Mr. Mckesson intends to file a petition seeking this Court's review of the Fifth Circuit's latest, now-final, decision this week.

Thank you for your attention to this matter.

Very truly yours,



Counsel for petitioner DeRay Mckesson